

REMARKS

I. Status of Claims

Claims 1 and 4-6 are currently pending along with new claims 13-16 in this application.

Claims 1 and 4-6 stand rejected under 35 U.S.C. § 112, second paragraph as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 4-6 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Kuhn et al, U.S. Patent No. 5,783,725 ("US '725").

II. The Use of (m/m) as an Expressed Unit Does Not Render the Claim Indefinite Under 35 U.S.C. § 112, Second Paragraph

The expressed unit of %(m/m) is an accepted designation for a weight based concentration (mass being equivalent to weight, as noted by the examiner). Examples such as U.S. Patent Nos. 7,105,078 7,074,437 and 7,074,436 were found within the USPTO database with "(m/m)" as the search term. Nonetheless, Claim 1 has been amended to recite a wt. % basis.

III. Kuhn Does Not Teach Mechanically Compressed Compacts

Kuhn (U.S. Patent No. 5,783,725) reflects the discussion found on page 2 of the present specification and teaches a process of stabilizing lactic acid menthyl ester (LME) with an alkali/alkaline earth (bi)carbonate. Otherwise, the LME develops a pungent smell which renders the product unusable (Kuhn, at column 1, lines 37-44). Dry powders are the only form of product discussed in col.2, lines 1-6. In the example, however, the LME crystal slurry containing sodium bicarbonate is filtered and dried without any attempt to increase product density. Indeed, the sole disclosed form of mixed powders in col. 2, lines 1-6 would seem to discourage densification in favor of a loose powder mixture (Kuhn, col. 2, lines 35-40).

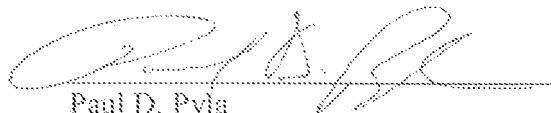
In re Application of
Alfred KÖRBER
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In direct contrast, the present invention stabilizes lactic acid menthyl ester with mechanical compression into a dense compacted solid. The specification teaches that compaction does not require the use of added inorganic salts to produce a stabilized product that can be stored for six or more months. This effect is surprising and is neither taught nor suggested by Kuhn. No reference is cited that would suggest to one of skill in the art such a simple solution to such a vexing spoilage problem. Absent an anticipatory reference or a *prima facie* case of obviousness, the present claims should be allowed.

IV. Conclusion

It is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested.

Respectfully submitted,



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